

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE B. SESHASAYANA REDDY

WRIT APPEAL No: 2231 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
30/09/2003 in WP No: 26679 OF 1997 on the file of the High Court.)

Between:

The Municipal Corporation of Hyderabad,
Tank Bund Road, Hyderabad, rep., by its
Commissioner.

..... APPELLANT

AND

1. K. Shanmugham, S/o. Balaiah,
about major, R/o.2-2-1137/8/1,
New Nallakunta, Hyderabad.

2. The Labour Court-I, II Floor, Chandravihar,
M.J. Road, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: Mr.GHANTA RAMA RAO

Counsel for the Respondent No.1: MR B.G.RAVINDER REDDY

Counsel for the Respondent No.2: G.P. FOR SERVICES I

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Appeal is filed against the order, dated 3.9.2003 passed by the learned single judge in W.P.No.26679 of 1997.

2. The respondent No.1 was engaged as NMR work Inspector for construction of Flyover. However, on completion of the work, the service of the respondent No.1 was terminated without following the provisions contained under Section 25-F of the Industrial Disputes Act. Therefore, an industrial dispute was raised by the respondent No.1-workman before the Tribunal in I.D.No.349 of 1991. The learned Tribunal however declined to grant any relief to the petitioner and passed award, dated 01.11.1996 against the workman. Aggrieved by the said award, the workman carried the matter in W.P.No.26679 of 1997 before this Court.

3. The learned Single Judge however allowed the Writ Petition holding that the disengagement of the respondent was in violation of Section 25-F of the Industrial Disputes Act (for short 'the Act'). Taking into consideration this aspect, the petitioner was directed to be reinstated into service with full back wages by an order, dated 3.9.2003, against which the present Writ Appeal has been filed by the Municipal Corporation.

4. Learned counsel for the Corporation now submits that the respondent-employee was engaged on the Flyover and as soon as the flyover is completed he has no right to continue, but however, on account of the non-compliance of Section 25-F of the

Act, the learned Single Judge found fault with the Corporation and granted the relief prayed by the petitioner. It is also brought to the notice of this Court that by virtue of the order of the learned Single Judge the petitioner has already been reinstated into service and he is working.

5. The learned counsel for respondent-employee further submits that the order of the learned Single Judge is quite legal and valid and it needs no interference more especially when there is violation of Section 25-F of the Act.

6. We have heard learned counsel for the parties.

7. It is not in dispute that the termination was affected in violation of Section 25-F of the Act and it is also admitted that the petitioner has been reinstated into service, but now the question that calls for consideration is whether award of full back wages is justified. It is to be noticed that the petitioner was disengaged consequent on the completion of the flyover, but however the petitioner remained unemployed for the period from the date of disengagement till reinstatement. Taking into consideration relevant circumstances as also the fact that the petitioner has also been reinstated and is being paid regular scales of NMR on par with the juniors, we find that awarding of full back wages is not justified and accordingly, we reduce the back wages to 50% instead of full back wages awarded by the learned single Judge.

8. With this modification, the Writ Appeal is dismissed. The back wages as awarded above shall be paid to the workman concerned within a period of four weeks from the date of receipt of a copy of this order. No costs.

G. BIKSHAPATHY, J.

B. SESHASAYANA REDDY, J.

Date: 31.12.2004

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To

1. The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund Road, Hyderabad.
2. The Labour Court-I, II Floor, Chandravihar,
M.J. Road, Hyderabad.
3. 2 CCs to the G.P. for Services I, High Court of A.P., Hyderabad (OUT).

4. 2 CD copies.